

BOARD OF ZONING APPEALS

Minutes

November 19, 2002

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m., on November 19, 2002, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following Board members were in attendance:

JAMES RUANE, JAMES SKELTON, RANDY PHILLIPS, JOHN ROGERS, and ERMA MARKHAM, in at 1:39 p.m.

The following Board member was absent: BICKLEY FOSTER.

SHARON DICKGRAFE -- Law Department present

J. R. COX, Commercial Plan Review/Commercial Zoning -- Office of Central Inspection, present.

The following Planning Department staff members were present:

DALE MILLER Secretary,

SCOTT KNEBEL Assistant Secretary,

ROSE SIMMERING, Recording Secretary.

RUANE: Calls meeting to order.

MILLER: Completes role call.

RUANE: First Item on our Agenda is approval of minutes from our meeting of October 22, 2002. I have some changes to make. Turning to page 4, we should leave in that bottom paragraph which starts with my for the Board but the exchange back and forth between Rose and I with regard to the microphones, I believe can be edited out in the interest of keeping these as brief as possible.

DICKGRAFE: I think you need to leave the minutes verbatim. There has been a lawsuit filed regarding the Appeal, and I think any changes, unless there is errors, all discussion needs to be included within the minutes. This is not one that we need to be brief on. We need to make sure the record is accurate.

RUANE: Toward that end, I would greatly appreciate it if we could be provided with copies of the minutes much earlier than with our packet, so that we can be a part of that process.

MILLER: We will do what we can we get them done as fast as we can in terms of getting them to you earlier.

RUANE: We can be part of the editing process, and should be. On page 22, in the last line after reference to Mr. Hall, instead of the word "being", I said since he is "since he is so". Then on page 33, second to the last line the word before "decision", at the far right hand margin should be "ultimate" not "ultimately." Those are the changes that I would request.

SKELTON moves ROGERS seconds to approve BZA meeting minutes of October 22, 2002, as amended.

MOTION carries 4-0.

RUANE: Moving ahead to agenda Item #2, approval of the BZA 2003 yearly calendar. Do we need a motion or action?

KNEBEL: Yes.

PHILLIPS moves ROGERS seconds to approve BZA 2003 Yearly Calendar.

MOTION carries 5-0.

RUANE: Next agenda Item #3.

SKELTON I had contact with Mr. Larry Boggs, and this was exparte communication, and Mr. Boggs said that he will bring this stuff out in the discussion at today's hearing.

RUANE: Anything informal should be brought up. Did everyone get a copy of the letter that was sent to us from Schaefer Johnson Cox Frey Architecture?

KNEBEL: The Planning Department received our copy today at this hearing from Mr. John Rogers.

PHILLIPS: I have had two contacts, as well. Mr. Boggs, as well as Bob Martz, has talked to me about this case. Individual contact once with Mr. Boggs and once with Mr. Martz.

KNEBEL, Planning staff: Presents staff report and slides. Staff recommends approval, subject to conditions, in the following report:

SECRETARY'S REPORT

CASE NUMBER:	BZA2002-00063
OWNER/APPLICANT:	Westlink Christian Church c/o Larry Wren and Justin Ekland
AGENT:	Trimark Signworks c/o Larry Boggs
REQUEST:	<ol style="list-style-type: none">1. Variance to increase the maximum permitted size of bulletin board sign for a church along an arterial street frontage from 48 square feet to 84 square feet; and2. Variance to permit lighting of a bulletin board sign by a method other than indirect white light.
CURRENT ZONING:	"SF-5" Single-Family
SITE SIZE:	34.6 Acres
LOCATION:	South of 21 st Street North and west of Maize Road (2001 N. Maize Rd.)

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant is requesting two variances on property zoned "SF-5" Single-Family. The subject property is currently being developed with Westlink Christian Church. The first variance is to increase the maximum permitted size of bulletin board sign for a church along an arterial street frontage from 48 square feet to 84 square feet. The second variance is to permit lighting of a bulletin board sign by a method other than indirect white light.

Westlink Christian Church has requested a bulletin board sign along its Maize Road frontage in the location shown on the attached site plan. The proposed sign, as illustrated in the attached diagram, consists of total of approximately 84 square feet, with approximately 30 square feet with the name of the church in 9-inch letters and approximately 54 square feet for an electronic L.E.D. reader board that would display changeable messages about church events. The applicant submitted the attached statement pertaining to the five conditions for granting the variances requested.

Section 24.04.185(1)(c) of the Sign Code defines a bulletin board sign as an on-site sign containing the name of the institution or organization, which may include names of persons connected with it; announcements of persons, events, or activities occurring on site; and a greeting or similar message. In the "SF-5" Single-Family zoning district, Section 24.04.190(11) of the Sign Code permits a church to have a 48 square foot bulletin board sign along an arterial street frontage. Section 24.04.190(11) of the Sign Code limits the lighting of bulletin board signs in the "SF-5" Single-Family zoning district to indirect white light. Section 24.04.190(13) of the Sign Code permits churches to use portable signs to announce special events.

ADJACENT ZONING AND LAND USE:

NORTH	"LC" & "GC"	Gymnastics studio, self-storage, retail, restaurant
SOUTH	"SF-5", "GC" & "NO"	Single-family, construction contractor, office
EAST	"SF-5" & "NO"	Church, single-family
WEST	"SF-5"	Single-family

The five conditions necessary for approval apply to both variances requested.

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as the property is 34.6 acres in size, which is several times larger than the a typical church site. Additionally, the property has over 1,000 feet of frontage. Neither the size of the property nor the length of street frontage is typical for a property found in the "SF-5" zoning district.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will adversely affect the rights of adjacent property owners, inasmuch as the character of the area immediately surrounding the proposed location of the sign is predominately residential in character and the sign would be directly visible from nearby residential properties. Since the proposed L.E.D. reader board would be brightly lit in vivid colors at all hours of the day and night, would create distracting motion from the changing of messages, and would be of sufficient size to be visible from residences at a significant distance, it is the opinion of staff that such a sign should be limited to an area that is commercial in character and permitting such a sign within an area that is predominately residential in character would lead to adverse impacts on the rights of adjacent property owners. However, a 32 square-foot, static-display message board with internally illuminated white light and hand-changeable letters is more appropriate for an area with a residential character since it is not a brightly lit, does not display vivid colors, does not create distracting motion, and is of a more a more limited size as to be less visible from residences in the area. Therefore, it is the opinion of staff that variances for a static-display sign rather than an L.E.D. reader board would not adversely affect the rights of adjacent property owners.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulation will constitute an unnecessary hardship upon the applicant, inasmuch as the church is located along an arterial street, and the church's ability to relay information regarding events is severely limited

if the church is only permitted a 48 square-foot sign with indirect white lighting along its Maize Road frontage.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest, inasmuch as the sign would be located in an area that is predominately residential in character but the proposed sign has a commercial design and scale and is brightly lit with vivid colors that create distracting motion. Such a sign would be detrimental to the orderly and harmonious development of the surrounding area. However, were variances for a static-display message board as described in the "Adjacent Property" section to be granted, it is the opinion of staff that it would not adversely affect the orderly and harmonious development of the surrounding area since it would be of an appropriate design and scale and would have minimal lighting and no distracting motion.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would oppose the general spirit and intent of the Sign Code inasmuch as the proposed L.E.D. reader board portion of the sign does not meet the following purposes of the regulations: encouraging signs, which by their location and design, are harmonious to the sites they occupy; eliminating excessive sign displays; and achieving a reasonable balance between the need of the sign and preserving the visual qualities of the community. However, were variances for a static-display message board as described in the "Adjacent Property" section to be granted, it is the opinion of staff that it would not oppose the general spirit and intent of the Sign Code since it would be of an appropriate design and scale and would have minimal lighting and no distracting motion, thus achieving the purposes of the regulations.

RECOMMENDATION: It is opinion of staff that the variances for the sign requested do not meet three of the five conditions necessary for the granting of the variances. However, it is the opinion of staff that if the sign requested was modified to include a 32 square-foot, static-display message board with internally illuminated white light and hand-changeable letters rather than a 54 square-foot L.E.D. reader board, the other three conditions necessary for the granting of the variances could be met. Should the Board determine that the five conditions necessary for the granting of the variances exist, then it is the recommendation of the Secretary that the variances to permit a larger bulletin board sign for a church along an arterial street frontage and to permit lighting of a bulletin board sign by a method other than indirect white light be GRANTED, subject to the following conditions:

1. The sign shall be placed in a location that is in substantial conformance with the approved site plan.
2. The sign shall be limited to 64 square feet in area, with no more than 32 square-feet for a static-display message board with internally illuminated white light and hand-changeable letters. The remainder of the sign shall be limited to indirect white light.
3. The design of the sign shall be approved by the Planning Director prior to the issuance of a sign permit.
4. Portable signage shall not be permitted on the site.
5. The applicant shall obtain all permits necessary to construct the sign and the sign shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the Board.
6. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

RUANE: Scott, I may have missed a point. Can you show me how the 84 sq feet dimension is determined?

KNEBEL: It is divided between 54 square feet for this (pointing) and 30 square feet for this, and this is basically a base of the sign, and this is what is considered an architectural embellishment.

RUANE: Will there be an LED on both sides of the sign?

KNEBEL: Yes, it will be a two-sided sign.

RUANE: Will the LED display face the single-family residences?

KNEBEL: It would face the direction of traffic on Maize Road both north and south.

PHILLIPS: Go back to overall aerial. I can see the residential. Where is the commercial or office spaces?

KNEBEL: Shows on the aerial.

MARKHAM: You are saying there would be flickering light or a light outside of the sign that would draw attention to it? Other than the letters that go across the sign on the inside of the sign?

KNEBEL: No, the illumination would be internally. The light would come out of the face of the sign. This type of sign would have the ability to have motion and those types of things were it permitted. In other instances, where signage of this type has been permitted in areas that are more of a commercial nature, there has been limitations on the frequency with which the signage could change messages.

MARKHAM: Most time when it is visual some type of motion is going on with the light like a search light. For example, the residence seems to be on the east and north side of the building, so if I am not directly passing on the main road, then the visual affect would not have any influence on me at night as far as my sleeping or in house living?

KNEBEL: It probably would not go into the house at night.

ROGERS: As proposed, would this sign display other colors other than white?

KNEBEL: It is showing red. Typically the sign of this type, if it is permitted, it can have multi-colors.

ROGERS: I meant red.

PHILLIPS: What is the distance of the frontage on Maize?

KNEBEL: Just over 1,000 feet of frontage.

SKELTON: Will there be other signs on the property?

KNEBEL: There would not be permitted any other ground mounted signage without a variance. You are only permitted one ground mounted sign per street frontage. There probably will be building signage, but I don't know that for sure.

WESTLINK CHRISTIAN CHURCH, LARRY WREN, PASTOR OF THE CHURCH: I want to share why this is so important to the church. The sign will adequately inform the community of events and programming. Currently between 3,000 and 4,000 people pass through our doors. Our church is larger than 95% of the churches in Wichita. We anticipate the fellowship to grow. We are no longer a neighborhood church, but we are a regional church. We will reach the county people, and we will be meeting the needs of the community. Some of the programs are divorce recovery, cancer survivors, blended families, single parents, preschool, and childcare. The greatest need in our community is childcare. This will be a valuable service to the community, and we need this sign to let people know what we are doing and when. We did a survey and the sign can be a major factor in reaching more people. We feel this is the type of sign we need.

KENTON COX with SCHAEFER JOHNSON COX FREY ARCHITECTURE: I sent a letter to the Board members. Sunday morning is the smallest use they have. Many weekday and evenings this building is in use. We are planning a community center here. Westlink community said they wanted a community center. That is why they purchased the land that they did. The site was purchased on Maize Road. How many of you have been to the intersection where this building is located? It used to be all farmland out there at 21st & Maize. We looked at the church as being part of that intersection that sort of busiest, lights, signs, and activity that is going on there at that intersection. We truly thought of how this building will be exposed and how they will perceive the church as well as all the other commercial activity taking place at that intersection. There are signs galore out there, and we truly believe that this sign will be a tiny little blip out there.

The sign looks attractive with the brick, the landscaping, berms, and the sign will look attractive, but it is important to let the community know what is going on at the church. We want to announce all of these programs that occur there. We want the computer option. We want red, kind of like the timer back there. I would agree with Scott that this is part of the residential neighborhood, but we are really the transition between the residential area to the south which is primary to the south of us and the Newmarket center at 21st and Maize Road. We have some slides to show as well. This shows an aerial of two entrances into the complex now. There will be a third entrance. We are building two small lakes for drainage and to create a buffer between Maize Road and the church. The sign will be perpendicular to Maize Road and constructed so that it intersects into the hill. There is a parking lot here and one in the back. This is the first phase of the facility. We do have an office building here and to the north is a commercial building and restaurants. We feel like the church is a transition between the residential area to the south of us, and then it changes into commercial because of the NewMarket. This sign would not be visible to the people that live behind.

There is a large atrium space in the center. Showing several slides. A gym facility and preschool here, and classrooms not just used for Sunday. This is a picture of the construction of the church. Approach from Southeast on Maize, lakes, residential and doctors' offices. The sign would be used for announcing various activities. This is the sign across the road from us, and we feel our sign will look better. Again, as you leave this location this is all commercial that is north of us, and we are so close to the commercial activities now. We have a small residential area here but I would maintain that our sign back here is nothing compared to all of the signage that is out there on all of the other commercial properties. We hope that we have illustrated that this intersection has changed and we feel that we are different.

RUANE: Mr. Cox, you need to rap it up. We will give you two more minutes.

KENTON COX: Maize road is a major arterial road. We are adjacent to Newmarket Square commercial. We do believe that it would be a hardship to us if we had to go out and change this sign by hand because of the numerous changes that would have to take place. We do not believe that we will be an adverse impact to the neighborhood, in fact we believe that we will add to the beauty to the area. We believe that we are consistent with what is already developed along 21st and Maize Road.

RUANE: I agree that this is a neighborhood that has under gone rapid change. Where is the old Crammer grass farm, or a tree farm, out there someplace?

KENTON COX: No, the Crammer grass farm is just north. The tree farm that they had, we are actually in the tree farm. We have left some of the trees that they didn't sell on the northern part. That actually creates a buffer between us and some of the residential to the west.

SKELTON: You said your sign would not be flashing all the time. How often will the message change?

KENTON COX: I might let Larry Boggs answer that, but it will not be flashing. We want to be able to change the message five or six times a day.

KNEBEL: If there is other people on behalf the applicant you will need to make a motion to extend their time.

RUANE: Is there anyone here to speak in opposition to the case? How many more speakers for the applicant do we have left?

BOGGS: Possibly one. I think everyone else is here to speak in favor of the motion.

DICKGRAFE: Applicant and/or his agent. Then other members of the audience get five minutes. If there are church members that want to speak they get five minutes, but the agent like Larry will need more time.

PHILLIPS: We should allow some flexibility since this is the only case that we have today.

PHILLIPS moves MARKHAM second to allow five more minutes for the applicant or agent.

MOTION and second 5-0.

LARRY BOGGS: In September the church decided that they wanted the sign. There is a small error about the size of the sign. We have proposed 51 square feet of changeable message. It is not our attempt to have a flashing sign, but we want the ability to display multi-messages. We don't want a portable sign. We are not opposed to restrictions like the other cases that you have heard. Look at the Westlink Christian Church sign. It is near the south approach. It is 500 feet from Maize Road. We find it hard to understand the Planning staff denial on this. We own this land. What is the possibility that our property has a different zoning. We are asking for one display with appropriate size of the sign located within the residential neighborhood. The neighbor is not very close to the southeast it is roughly 300 feet to his fence. To the northeast it is 420 feet. As far as our sign imposing on the neighborhood you would have to look between their fence and between their trees. We ask for your help.

RUANE: I think I know what other church that you are referring to, but would you not agree that the commercial nature of that intersection is different than your location?

BOGGS: It is different. We are Light Commercial on the other three corners of that intersection. Here we are strictly light commercial to the north of us.

RUANE: We will bring our comments up here now. We have received some very good comments. I don't envy staff for this recommendation, and I know you have worked hard on this case.

PHILLIPS MOVES SKELTON SECONDS THAT THE BOARD ACCEPT THE FINDINGS OF FACT AS SET BELOW; AND THAT ALL FIVE CONDITIONS SET OUT IN SECTION 2.12.590(b) OF THE CITY CODE AS NECESSARY FOR THE GRANTING OF A VARIANCE HAVE BEEN FOUND TO EXIST AND THAT THE VARIANCE BE GRANTED SUBJECT TO THE CONDITIONS SET OUT BELOW FOR BZA2002-63.

UNIQUENESS: It is the opinion of the Board that this property is unique, inasmuch as the property is 34.6 acres in size, which is several times larger than the a typical church site. Additionally, the property has over 1,000 feet of frontage. Neither the size of the property nor the length of street frontage is typical for a property found in the "SF-5" zoning district.

ADJACENT PROPERTY: It is the opinion of the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the sign will be located a substantial distance from residential properties and in close proximity to commercial properties with similar signage.

HARDSHIP: It is the opinion of the Board that the strict application of the provisions of the zoning regulation will constitute an unnecessary hardship upon the applicant, inasmuch as the church is located along an arterial street, and the church's ability to relay information regarding events is severely limited if the church is only permitted a 48 square-foot sign with indirect white lighting along its Maize Road frontage.

PUBLIC INTEREST: It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as the sign will not contain flashing or moving images and therefore would be harmonious with the development of the area. Also, the sign would promote use of the building as a community center.

SPIRIT AND INTENT: It is the opinion of the Board that the granting of the variance requested would not oppose the general spirit and intent of the Sign Code inasmuch as the sign will be low-profile and is within the intent of the Sign Code to allow a church to identify and promote events.

MOTION carries 5-0.

BZA RESOLUTION NO. 2002-00063

WHEREAS, Westlink Christian Church c/o Larry Wren and Justin Ekland, (owner/applicant) Trimark Signworks c/o Larry Boggs, (agent) pursuant to Section 2.12.590.B, Code of the City of Wichita, request variances to Section 24.04.190(11) of the Sign Code to increase the maximum permitted size of bulletin board sign for a church along an arterial street frontage from 48 square feet to 81 square feet and to permit lighting of a bulletin board sign by a method other than indirect white light on property zoned "SF-5" Single-family Residential and legally described as follows:

Lot 1, Westlink Christian Church Addition, Wichita, Sedgwick County, Kansas. Generally located south of 21st Street North and west of Maize Road (2001 N. Maize Rd.)

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of November 19, 2002, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique. It is the opinion of the Board that this property is unique, inasmuch as the property is 34.6 acres in size, which is several times larger than the a typical church site. Additionally, the property has over 1,000 feet of frontage. Neither the size of the property nor the length of street frontage is typical for a property found in the "SF-5" zoning district.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of the Board that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the sign will be located a substantial distance from residential properties and in close proximity to commercial properties with similar signage.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the zoning regulation will constitute an unnecessary hardship upon the applicant, inasmuch as the church is located along an arterial street, and the church's ability to relay information regarding events is severely limited if the church is only permitted a 48 square-foot sign with indirect white lighting along its Maize Road frontage.

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of the Board that the requested variance would not adversely affect the public interest, inasmuch as the sign will not contain flashing or moving images and therefore would be harmonious with the development of the area. Also, the sign would promote use of the building as a community center.

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of the Board that the granting of the variance requested would not oppose the general spirit and intent of the Sign Code inasmuch as the sign will be low-profile and is within the intent of the Sign Code to allow a church to identify and promote events.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section

2.12.590.B, Code of the City of Wichita, that variances to Section 24.04.190(11) of the Sign Code to increase the maximum permitted size of bulletin board sign for a church along an arterial street frontage from 48 square feet to 81 square feet and to permit lighting of a bulletin board sign by a method other than indirect white light on property zoned "SF-5" Single-family Residential and legally described as follows:

Lot 1, Westlink Christian Church Addition, Wichita, Sedgwick County, Kansas. Generally located south of 21st Street North and west of Maize Road (2001 N. Maize Rd.)

The variances are hereby GRANTED, subject to the following conditions:

1. The sign shall be placed in a location that is in substantial conformance with the approved site plan.
2. The sign shall be limited to 81 square feet in total area, with no more than 51 square-feet for an internally-illuminated, red-light L.E.D. display. The sign shall be of a design that is in substantial conformance with the approved elevation rendering.
3. No flashing, scrolling, or moving images or text shall be displayed on the sign. The message displayed on the sign may change, but it shall not change more than once every 60 seconds.
4. Portable signage shall not be permitted on the site.
5. The applicant shall obtain all permits necessary to construct the sign and the sign shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the Board.
6. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

RUANE: Agenda Item 4: Report from Central Inspection.

J. R. COX: BZA2002-00008 - Two variances to increase the maximum permitted height of a building sign on the north elevation from 30 feet to 70 feet and variance to increase the maximum permitted height of a building sign on the west elevation from 30 feet to 50 feet located at the southwest corner of Kellogg & Armour is in compliance.

BZA2002-00006 – Two variances to permit a second bulletin board sign for a church along an arterial street frontage; and a variance to permit lighting of a bulletin board sign by a method other than indirect white light located at the southeast corner of 29th Street North and Rock Road is in compliance.

RUANE: Any feed back from BZA2002-06 from the public?

COX: No, not that I know of.

BZA2002-00014 – Variance to reduce off-street parking requirement from 92 spaces to 63 spaces located at the northeast corner of Central and Broadway is in compliance. I see no problem with the parking, but there are some landscaping issues.

RUANE: There are very few cars in the parking lot.

MARKHAM: Do we have a copy of those BZA reports you are talking about?

COX: I don't believe that you would because you are new to the Board.

MARKHAM: I would like copies of those sent to me.

SIMMERING: I will handle it.

RUANE: Anybody have anything else to discuss?

Adjourned at 2:36 p.m.